

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;  
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT REGARDING MAX  
DUTTON'S CLAIMS**

**A-20**

**Max Dutton Deposition Transcript Exhibit 36**

Email from B. Simon to M. Dutton responding to Open Door (9/1/2009)

**Redacted**

**From:** Bill Simon  
**Sent:** Thursday, September 10, 2009 8:18 AM  
**To:** Max Dutton - mrdutto.s02000; Eduardo Castro-Wright; Mike Duke; Mike Moore - Operations; Rosalind Brewer; David Carmon; Tom Hyde - Executive  
**Subject:** RE: Open Door Issue

Max

Thank you for bringing this issue to our attention. In that we do not know all of the circumstances, it would be best if Rosalind Brewer, your Division President, looked into the issue before we get involved. I will stay in close contact with her throughout the process. Once she has been in contact with you, if you still believe you haven't had a chance to state your case, I will give you a call or come by your store.

Regards,

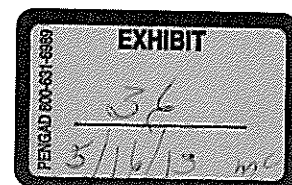
Bill Simon

**From:** Max Dutton - mrdutto.s02000  
**Sent:** Thursday, September 10, 2009 8:03 AM  
**To:** Eduardo Castro-Wright; Mike Duke; Bill Simon; Mike Moore - Operations; Rosalind Brewer; David Carmon; Tom Hyde - Executive  
**Subject:** Open Door Issue

Good morning,

I am respectfully submitting this statement of fact to you as I use the Open Door to discuss a very serious situation. Two months and twenty-nine days ago I was met at the door by my Market Manager, Eric Litchfield, my Market Human Resource Manager Tracey Battle and my Market Asset Protection Manager Dawana Riddick. I was escorted from the store and driven over 200 miles that day by my Market Manager with no explanation of what was occurring. Upon returning that day I was told that I had a type "A" personality and although the store operates effectively, that this was not a good quality to possess as a Store Manager. I was not given any explanation for this visit, but only told that they would return. As of last evening I met with my Regional OPS Coordinator Noah Johnson and my Regional Asset Protection Manager Art Binder in New Bern, NC informing me that "the writing is on the wall." As of the date of this message, I still do not clearly understand this situation, nor what I am being accused of. However, there seems to be a resolve before I can answer any questions or concerns that I believe have come about with this situation. For the past sixteen and half years I have been a dedicated and loyal employee. I have never been couched, but yet there seems to be a ground roots efforts to destroy my character, my reputation and my career without allowing me to speak on my behalf. At this time I would respectfully request that opportunity to state my case in person. I will be available to come to Bentonville and meet with you at your convenience. In my tenure with Walmart I have never been defenseless and unable to speak on my own behalf, but at this moment when there seems there will not be an avenue for me to use, I have called on the executives of this great company for leadership and mediation concerning this matter.

As the manager of Store #2000 I have faced many obstacles. One of these is that I have asked repeatedly to be properly staffed with Assistant Managers. I have made this request to my MM and MHRM for over seven months and this has been totally ignored. There were many days in the past few months when I was the only member of



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management in the building, or I just had one Assistant Manager working with me to cover this very busy store. This one Assistant Manager has worked some very long hours and there were weeks that he worked almost everyday open to close as the only Assistant on duty. In order to operate this store I had to depend on key hourly associates to assist me in the day to day operations. I think almost all managers throughout this company use their key people who are willing to step up and take on leadership roles. I have a building full of great associates and I have a few outstanding associates who just take on these leadership roles, not because of me, but because they care about this store and that it operates effectively. Most of these associates are my mentees and they are responsible people who react quickly to any merchandising, operational or customer issue within the store. I believe this is reflected in our Associate Opinion Survey which we scored an 82% this year. These are good people who make all of us better by knowing them for their dedication and desire to succeed. About 75% of my associates have more than 10 years with the company and from this store I have promoted six associates to Co-Managers and some have gone onto Store Managers as well. I understand from Eric that one of the concerns of this situation is that I have used these key people to assist me everyday. There is one particular associate that they took exception with and her name is Teresa Shanefeller. She has been my Invoice Associate for the past sixteen and half years. She possesses all that skills and knowledge of a Co-Manager or Store Manager because she has a passion to see this store successful. She has been a dedicated and trustworthy associate and I could always depend on her to complete any project on time and performed professionally. In her sixteen and half years Teresa has NEVER taken one paid sick day and I only wish had dedicated Assistant Managers with the same drive as her. In order to be on the floor and operate the store, I had to give Teresa my sign-on and password to let me know of important e-mails or Event Calendar direction. I did this because I was so under staffed and needed to keep the store operational. She holds all information with confidentiality and respect. I have always felt confident in her leadership skills. Yet, as I was told by Noah and Art this seems to be the issue that is cause for the "writing to be on the wall." I know that this is not allowed by company policies, but I believe that I am not the first Walmart manager that is guilty of this infraction, but I feel that I am the only one being persecuted for this action. I believe that all Market Assistants have their Market Managers sign-on and password used for the purpose of assisting them in operations of the Market. The Market Assistant is an hourly position and this would be no different in an individual that I depended upon at store level in a business critical situation.

As I stated previously this situation began on June 12th after I attended a Market Meeting on June 6th where I met with Eric to discuss my constant requests for additional Assistant Managers as I was grossly understaffed and well on my way to the busy summer that we experience here. I have many associates who came to me after this was over on June 12th very upset about this disruption and the threatening questions that they were asked. I told them I was not aware of what was occurring so I could not comment on it in anyway. A few associates questioned me of the Market team was trying to fire me due to my tenure or was it because of my age (being over 50 years old). Again, I could not speculate because I was not sure of what was the basis of their visit. I do know that my APC Kim Grant has been assisting Tracey and Dawana by communicating with them and providing all information that they have requested such as telling associates how to write statements and answer questions. This was witnessed by several associates and reported to the Regional Office. On August 18, 2009 I received a phone call from Eric to tell me that they (Tracey and Dawana) botched this investigation. This was my first understanding that there was an investigation. He informed me that Marie B., the Market Human Resource Manager from Myrtle Beach would be here for a red store follow up on our 82% AOS score. I was not sure why this was occurring, but again I followed direction. On September 8, 2009 while speaking with Art Binder he told me again that Marie was sent here because the investigation was messed up and she was to complete the investigation. Again, I have NEVER been allowed to answer any accusations, but just have watched as my reputation and dedicated service have been called into question almost everyday since this event started in June. I have not been a perfect manager, but I have taken this store to a very profitable level (9.97 YTD profit) and attempted to live the believes of our founder Sam Walton. My goal is to see all of my associates succeed and all of us together enjoy the benefits of our work in the form of MyShare bonuses. For many years I was approached by Dare County officials to become a County Commissioner. After discussing this with my Market team, the Regional team and the Legal Department, I was advised that

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I should run for Dare County Commissioner and become more involved in my community. I did just that and won election for a four year term. I am proud of this, but ALWAYS my first responsibility is with the managing of this store. I love working for Walmart. I am also proud of how much this little Division 01 has accomplished over the years. It is because my desire to see this store successful that I use this Open Door on this day.

Again, I would like to meet with you in person to discuss this matter and address the accusations that have damaged my reputation. I will be available at your convenience and thank you for your time in reading this correspondence.

Respectfully,

**Max Dutton**  
Manager  
Store #2000  
Kitty Hawk, NC

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